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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,716	01/11/2001	Ronald Alan Coffee	BER-3.5.009/3714	1036

7590 04/19/2004

FROST BROWN TODD, LLC  
2200 PNC CENTER  
201 EAST FIFTH STREET  
CINCINNATI, OH 45202

EXAMINER

LEWIS, KIM M

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 04/19/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/758,716

Applicant(s)

COFFEE, RONALD ALAN

Examiner

Kim M. Lewis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 42-67 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> .                  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claim 42, drawn to a method of forming and ingestible product containing an active ingredient, classified in class 128, subclass 200.11.
  - II. Claim 43, drawn to a method of forming at least partially solid material classified in class 239, subclass 690.
  - III. Claim 44, drawn to a hand holdable wound care device, classified in class 239, subclass 3.
  - IV. Claims 45 and 46, drawn to a device to produce fiber particles, classified in class 427, subclass 30.
  - V. Claims 47-49, 59, 61 and 65-67 drawn to a method of providing a wound dressing a method of forming a dressing for a wound, a method of forming a dressing for a wound, a method of providing a dressing on a surface, a method of providing a dressing on a wound, a method of forming a dressing or covering on a surface and a method of providing a dressing or covering on a surface, classified in class 602, subclass 41.
  - VI. Claims 50-54 and 56 drawn to a method of promoting or controlling tissue repair in a wound, a method of providing a tissue repair promoting dressing for a wound, a method of controlling or promoting tissue repair

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and a method of promoting tissue repair, classified in class 424, subclass 93.7.

- VII. Claim 55, drawn to a hand holdable device for enabling promotion of tissue repair, classified in class 239, subclass 691.
- VIII. Claims 57 and 60, drawn to a method of providing a fiber covering on a surface, a method of providing a fibrous layer covering on a surface, classified in class 2, subclass 243.1.
- IX. Claim 58, drawn to a method of supplying an active ingredient to an area of skin or soft tissue, classified in class 604, subclass 290.
- X. Claim 62, drawn to a method of depositing material into a cavity or onto a concave surface, classified in class 604, subclass 11.
- XI. Claim 63, drawn to a method of producing material for supply to the respiratory system of a mammal, classified in class 128, subclass 200.24.
- XII. Claim 64, drawn to a method of forming a cavity wound dressing, classified in class 604, subclass 19.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I-XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as capable of used together and they have different effects.

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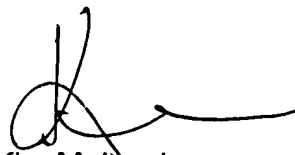
3. A telephone call was made to Carolyn Schnapp on 4/19/04 to request an oral election to the above restriction requirement, but telephone contact was not.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703.308.0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kim M. Lewis  
Primary Examiner  
Art Unit 3743

kml

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